

MEMORANDUM

TO: Planning Commission

FROM: Heather Beckmann, Senior Planner

RE: Section 9.5-22 Revisions

DATE: February 1, 2006



The suggested revisions from the January 25, 2006 Planning Commission Hearing have been incorporated into the staff report and ordinance whereas the revisions are highlighted and additional language is underlined and deleted language is stricken through.

MEMORANDUM

TO: The Planning Commission

FROM: Heather Beckmann, Senior Planner

DATE: February 2, 2006

MEETING DATE: February 8, 2006

RE: REVISIONS TO MONROE COUNTY LAND DEVELOPMENT REGULATIONS, SECTION 9.5-22.

I BACKGROUND

The proposed amendments to Section 9.5-22 of the Monroe County Land Development Regulations will affect the qualifications for membership, appointment, removal, ~~terms~~, vacancies, quorum and voting of the Planning Commission. Specifically, this ordinance effects the ~~terms~~ and selection of appointed Planning Commissioners, limits the term of vacancies, expands the field of qualified candidates and geographic locations, as well as delete term limits.

II SUMMARY

The proposed changes are as follows:

1. Commissioner Appointments:

The current code provision states that the mayor appoints the members of the Planning Commission after nominations are put forth by the commissioners, with the advice and consent of the board. This may have been intended for the initial appointments. The proposed ordinance states that the commissioner who appointed the person vacating the position on the Planning Commission nominates a candidate, who then has to be approved by three members of the BOCC. This reflects the general practice since the Planning Commission was established.

2. Terms:

~~A. All Planning Commissioners holding a seat on December 31, 2005, shall serve until December 31 of the year in which their terms expire, actually 2-3 months more than usual. Appointments are effective January 1 of the following year. This gives a new county commissioner in Districts 1, 3 and 5 at least a month to appoint someone, instead of leaving the appointment to someone who is possibly vacating office.~~

~~B. District 2 and 4 are appointed as they are now, but all terms will commence on January 1 and end on December 31 of each year, clarifying the dates of the terms.~~

~~C. This results in uniform terms and dates, retaining staggered terms.~~

~~Other options considered were appointing Planning Commissioners in the year of the election of the county commissioners, or having terms expire when the term of the nominating commissioner expires. This could mean longer terms for the Planning Commissioners, or if two year terms continue, possibly five new commissioners in any year. If the terms expire when the county commissioner's term expires, there will be a gap before nomination.~~

2. Limiting Vacancies:

The amended ordinance provides that the Planning Commission position will not be vacated until it is filled; thus, unless there is undue delay, the Commission will always have five members. If a county commissioner does not nominate someone within 60 days of the vacancy, the mayor may put forth a nomination.

3. Additional Qualified Candidates:

Persons nominated must already be qualified electors in Monroe County. Currently, nominations are supposed to be only from the fields of planning, development and environmental sciences. The amendment would add additional qualified persons to serve including members of the business community and other Keys local industries, which has actually been the practice.

4. Geographical Representation:

The current code states, "... the geographical representation of the Keys shall be considered." The amendment clarifies that specific geographical representation is not required as a condition of nomination or appointment. A Planning Commission candidate does not have to be from a specific area.

5. Excused Absences and Removal by the BOCC:

The amendment provides that members of the Planning Commission serve at the pleasure of the Board of County Commissioners. There is still the requirement that the candidate must be a qualified elector, and that they may not be absent more than three consecutive regular meetings within a three month period; however the amendment provides that there may be excused absences with notice to the Planning Commission.

6. Term Limits:

The term limitation of three terms is deleted.

III FINDINGS OF FACT

1. Staff finds that the proposed changes are consistent with Section 9.5-511(d)(5)b.(v) "recognition of a need for additional detail or comprehensiveness".
2. Staff finds the amendment consistent with the goals, objectives, and policies of the Monroe County Year 2010 Comprehensive Plan.

3. Staff finds the amendment consistent with F.A.C. Chapters 9J-5, Florida Statutes, Chapter 163, and The Principles for Guiding Development.

IV PROPOSED TEXT CHANGE

Please see attached Ordinance.

VI RECOMMENDED ACTION:

Based on the Findings of Fact and Conclusions of Law above, the Development Review Committee recommends **APPROVAL** of the proposed text change to Section 9.5-22 of the Monroe County Land Development Regulations.

ORDINANCE NO. _____

AN ORDINANCE OF MONROE COUNTY, FLORIDA, AMENDING CHAPTER 9.5 ENTITLED "LAND DEVELOPMENT REGULATIONS" BY AMENDING SECTION 9.5-22; ~~PROVIDING THAT THE TERM OF EACH PLANNING COMMISSION MEMBER IN OFFICE DECEMBER 31, 2005 SHALL EXPIRE DECEMBER 31 OF THE YEAR IN WHICH THE MEMBER'S TERM EXPIRES;~~ ESTABLISHING THAT AFTER JANUARY 1, 2006, VACANCIES SHALL BE FILLED BY NOMINATION BY THE COMMISSIONER OF THE DISTRICT WHO MADE THE APPOINTMENT FOR THE CURRENT VACANT POSITION; REQUIRING APPROVAL BY A VOTE OF THREE MEMBERS OF THE COUNTY COMMISSION; PROVIDING NEW EFFECTIVE DATES FOR APPOINTMENTS; ALLOWING CANDIDATES WITH EXPERIENCE FROM THE BUSINESS COMMUNITY AND OTHER LOCAL INDUSTRY; PROVIDING FOR NOMINATION BY THE MAYOR UNDER CERTAIN CONDITIONS; ~~PROVIDING FOR UNIFORM TERM DATES;~~ ALLOWING REMOVAL OF A PLANNING COMMISSIONER ONLY BY VOTE OF AT LEAST THREE MEMBERS OF THE COUNTY COMMISSION; ESTABLISHING THAT PLANNING COMMISSIONERS SERVE AT THE PLEASURE OF THE BOARD OF COUNTY COMMISSIONERS; ELIMINATING TERM LIMITS; PROVIDING FOR EXCUSED ABSENCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR INCLUSION IN THE MONROE COUNTY CODE OF ORDINANCES; PROVIDING FOR FILING WITH THE SECRETARY OF STATE; PROVIDING FOR AN EFFECTIVE DATE

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY:

Section 1. Findings by the Board of County Commissioners.

A. The current ordinance on appointments to the Planning Commission gives more control over the appointments to the person who is the mayor than to the individual commissioners.

~~B. Three of the appointments are currently made in September or October prior to or during election time in even years. Two appointments are made a year after an election in odd years. All appointments are for a term of two years.~~

~~C. A fall appointment date for the members of the planning commission may lead to a "lame duck" appointment by a county commissioner who is not running for office or to an appointment for political reasons to further an incumbent's election prospects, and therefore a date for appointments after November of each year is more representative of the political desires of the electorate.~~

D. It is difficult to find a number of planning commission candidates who meet the current selection criteria of expertise only in environmental fields, development and planning. Allowing persons who represent the diverse, local, business community to serve on the planning commission will add other qualified persons to the candidate pool.

E. A planning commissioner may be removed for cause by a majority of the Board of County Commissioners, allowing two members of a three member quorum to remove a member of the planning commission, when by procedures adopted by the county commission a vote of at least three of the members of the county commission is required to appoint a member of the planning commission.

F. At present there is a term limit of three (3) consecutive terms for each planning commissioner. This does not serve the public's interest in retaining those persons who are diligent in their duties and have an expertise with the procedures and history of the planning commission if they so desire to serve.

G. Termination of a member of the planning commission is only for cause, parenthetically listed as three absences in a three month period, allowing for no excusable absences. There may be occasions when it is desirable to keep the current member if there are extenuating circumstances.

H. The only other provision for termination of a planning commissioner's term is a mandatory termination by reason of a conviction of a felony or offense of moral turpitude or not being a qualified elector of Monroe County.

I. It is in the best interests of the public that members of the planning commission serve at the pleasure of the county commission.

~~J. The five members on the Planning Commission with the district of the commissioner appointing them and term expiration dates are as indicated below:~~

- ~~1. District 1 — James D. Cameron — Term expires September 1, 2006~~
- ~~2. District 2 — Michelle C. Deal, Esq. Term expires November 15, 2007~~
- ~~3. District 3 — Julio Margalli, Esq. Term expires October 16, 2006~~
- ~~4. District 4 — Lynn Mapes — Term expires September 20, 2007~~
- ~~5. District 5 — Randy Wall — Term expires September 1, 2006~~

~~K. The dates of the terms of each planning commissioner are different. Uniform, although staggered, terms would be of benefit to the public and to those responsible for the appointment of each commissioner.~~

L. The absence of a planning commissioner for lack of an appointment is not in the public interest and leads to stalled projects, land development regulations and other growth management issues if there is a tie vote or lack of quorum. Retaining the planning commissioner whose term has expired until the vacancy is filled will insure the presence of a quorum and help to prevent tie votes. Assuring the vacancy will be filled by the mayor if a County commissioner does not put forth a candidate within 60 days will insure that a vacancy does not persist.

M. Since the inception of the Planning Board, the mayor and commissioners have individually nominated candidates for the planning commission and voted for or against the person nominated. The procedure for appointment by the mayor with the advice and consent of the commission that is prescribed in the current ordinance has not been followed. The procedure that is followed is a fair procedure and the ordinance should reflect the actual procedure used by the board of county commissioners.

Section 2. Sec. 9.5-22 is hereby amended to read as follows*:

Sec. 9.5-22. Planning commission.

* * * * *

(d) Membership: Appointment, Removal, Terms, and Vacancies:

(1) The planning commission shall be composed of five (5) members, ~~to be appointed by the mayor with the advice and consent of the board of county commissioners. Each member of the board of county commissioners shall submit a name of a candidate to the mayor. Those persons holding a seat on the planning commission on December 31, 2005, shall remain in office until December 31 of the year in which their term expires. After January 1, 2006, when the terms of the members of the planning commission expire or are vacant, the vacancies shall be filled by the county commission member for the district who made the previous appointment for the vacant seat. Vacancies for District 1, District 3 and District 5 shall be made effective January 1 of odd numbered years. District 2 and District 4 vacancies shall be made effective January 1 of the even years.~~ The county commissioner shall nominate a person qualified as provided in paragraph (c) above to be approved by the board of county commissioners by a vote of at least three (3) members. Members shall be chosen from electors with experience in the areas of planning, environmental science, the business community, and the development industry, and other Keys local industries.

*(Coding: Additional language is underlined; deleted language is ~~stricken through~~.)

~~together with t~~ The geographical representation of the Keys shall be considered, but not required when making appointments to the planning commission. If no candidate is put forth for approval by the county commissioner member for the district within sixty days

prior to expiration of the respective planning commissioner's term, the mayor shall submit a candidate for approval by the board of county commissioners. After January 1, 2006, the terms of all new members of the planning commission shall run from January 1 to December 31 for two years. If a planning commissioner's term expires on December 31 of any year, the planning commissioner shall remain in office until his or her re-appointment or a new appointment is ratified by the Board of County Commissioners. If an appointment is made and takes effect later than January 1 of any year, accepting and filling such an appointment shall constitute the filling of a two year term which ends December 31 in the normal year of termination.

(2)Members may be removed for cause prior to the expiration of their appointment shall serve at the pleasure of the county commission and may be removed by the affirmative vote of at least three (3) members majority vote of the board of county commissioners, and shall be compensated as determined by the board of county commissioners. [See Sec. 2-6.]

(3) All members shall serve a term of two (2) years except that two (2) members shall be appointed for an initial term of one (1) year. No member shall serve more than three (3) consecutive terms. Planning commission members shall be compensated as determined by the board of county commissioners.

* * * * *

(6) If any member of the commission shall fail to attend three (3) regular meetings without prior notice and an excuse sufficient to the planning commission within any three month period, such failure shall constitute sufficient grounds for termination of the member's appointment. The planning commission coordinator shall notify the chairman or the vice-chairman, as the case may be, and he/she shall immediately file a notification of such nonattendance with the county administrator for placement on the agenda of the board of county commissioners; and the board shall, by appropriate action, terminate the appointment of such person and fill the vacancy thereby created as soon as practicable. A member who desires to be excused shall contact the planning commission coordinator not later than 24 hours prior to the meeting. The planning commission coordinator shall report the request to the chairman who shall make the determination to grant or deny the request.

Section 3. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 4. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of said conflict.

Section 5. The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the County of Monroe, Florida, as an addition or amendment thereto.

Section 6. This ordinance shall take effect immediately upon receipt of official notice from the Office of the Secretary of State of the State of Florida that this ordinance has been filed with said Office and upon approval by the Department of Community Affairs of the State of Florida according to the terms of the approval.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida, at a regular meeting of said Board held on the _____ day of _____, _____.

Mayor Charles "Sonny" McCoy	_____
Mayor Pro Tem Murray Nelson	_____
Commissioner George Neugent	_____
Commissioner David Rice	_____
Commissioner Dixie Spehar	_____

(SEAL)
Attest: DANNY L.KOLHAGE, Clerk

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

By _____
Deputy Clerk

By _____
Mayor